

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 24727 of 2007(R)

PETITIONER:

GEOFFREY D'SOUZA,
HOUSE NO.387, CROSS CUT ROAD, GANDHIPURAM,
COIMBATORE, TAMIL NADU.

BY ADV. SRI.V.P.SUKUMAR
SRI.KURYAN THOMAS

RESPONDENTS:

1. THE SALES TAX OFFICER,
CHERTHALA.
2. THE REVENUE DIVISIONAL OFFICER &
SUB - COLLECTOR, FORT KOCHI.
3. THE DISTRICT COLLECTOR,
ERNAKULAM.
4. THE COMMISSIONER OF LAND REVENUE,
THIRUVANANTHAPURAM.
5. PHILIP D'SOUZA, S/O. R.E. D'SOUZA,
ROSE GARDEN, EDAKOCHI, ERNAKULAM DISTRICT.

R1 TO 4 BY G.P. SRI.C.K.GOVINDAN
R5 BY ADV. SRI.N.RATHEESH
SMT.SUMA RATHEESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE ASSESSMENT ORDER DT.12.3.2003 PASSED BY R1 UNDER THE KGSTACT FOR 1997-98.

P2: .DO. 1998-99.

P3: .DO. 1997-98.

P4: .DO. 1998-99.

P5: TRUE COPY OF THE REPRESENTATION DT.30.1.2006 SUBMITTED BY PETITIONER BEFORE R2.

P6: .DO. DT.19.7.2006 .DO.

P7: TRUE COPY OF ORDER DT.10.7.2006 PASSED BY R2.

P8: TRUE COPY OF THE APPLICATION FOR REVISION DT.11.9.2006 FILED BY PETITIONER BEFORE R4.

P9: TRUE COPY OF ORDER DT.30.12.2006 PASSED BY DY. COMMISSIONER(APEALS), COMMERCIAL TAXES, KOLLAM.

P10: TRUE COPY OF ORDER DT.9.3.2007 PASSED BY R1.

P11: TRUE COPY OF LETTER DT.9.3.2007 SENT BY R1 TO THE TAHSILDAR(RR), MATTANCHERRY.

P12: TRUE COPY OF ORDER DT.28.2.2007 PASSED BY R4.

P13: TRUE COPY OF REPRESENTATION DT.19.3.2007 SUBMITTED BY PETITIONER BEFORE R4.

P14: .DO. DT.3.5.2007 .DO. R3.

P15: TRUE COPY OF LETTER DT.10.7.2007 RECEIVED BY PETITIONER FROM THE OFFICE OF R4.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.24727 of 2007
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Dated this the 20th day of August, 2007.

JUDGMENT

Heard counsel for the petitioner, Government Pleader and counsel for 5th respondent. The petitioner's property was sold in recovery proceedings for recovery of arrears of sales tax. The property was purchased by 5th respondent who is petitioner's younger brother for a consideration of above Rs.4.7 lakhs. Though the arrears sought to be recovered was above Rs.10 lakhs, petitioner got the liability reduced to less than Rs.50,000/- in appeal. The petitioner's application for setting aside sale was rejected by the Commissioner of Land Revenue vide Ext.P12. The 5th respondent has gracefully agreed to return the property to the petitioner, but has rightly demanded compensation. Since the payment was made more than an year back, I feel petitioner should pay a compensation of rupees one lakh which accounts for only 20% interest. The W.P. is accordingly disposed of directing the second respondent to verify the recovery file and check the liability that is due from petitioner as intimated by first respondent. The excess collected after recovering cost and other charges should be refunded to the petitioner within a period of two weeks from date of production of

copy of this judgment by the petitioner. If any other liability is due from the petitioner for any other assessment year, the same amount also can be recovered. If petitioner makes payment of the entire amount deposited by the 5th respondent and along with it a further sum of rupees one lakh towards compensation to him before 30.9.2007, the sale will stand set aside and property will revert back to the petitioner without any order or proceedings by the respondents.

C.N.RAMACHANDRAN NAIR
Judge

pms